That 401(a)(2) states the following:

> "Upon receipt of such application and certification the licensing or permitting agency shall immediately notify the Administrator of such application and certification. Whenever such a discharge may affect, as determined by the Administrator, the quality of the waters of any other State, the Administrator within thirty days of the date of notice of application for such Federal license or permit shall so notify such other State, the licensing or permitting agency, and the applicant. If, within sixty days after receipt of such notification, such other State determines that such discharge will affect the quality of its waters so as to violate any water quality requirements in such State, and within such sixty-day period notifies the Administrator and the licensing or permitting agency in writing of its objection to the issuance of such license or permit and requests a public hearing on such objection, the licensing or permitting agency shall hold such a hearing. The Administrator shall at such hearing submit his evaluation and recommendations with respect to any such objection to the licensing or permitting agency. Such agency, based upon the recommendations of such State, the Administrator, and upon any additional evidence, if any, presented to the agency at the hearing, shall condition such license or permit in such manner as may be necessary to insure compliance with applicable water quality requirements. If the imposition of conditions cannot insure such compliance such agency shall not issue such license or permit."

(1) Based on footnote one or two, depending on the Fact Sheet, it appears that EPA is using the 6.5 gpd FCR for these permits. I recall Christine Psyk stating at the Oct 4, 2012 Idaho Negotiated Rulemaking meeting that EPA would be utilizing the 17.5 gpd even though EPA disapproved that submission. If my understanding is correct, and EPA is now utilizing the 6.5gpd, this is an absurd turn of events. Essentially, EPA has disapproved a higher standard stating that it likely needs to be increased based on several factors, but continues to use an outdated standard indefinitely while more studies and process proceed. If this is the case, EPA should promulgate its own scientifically supportable FCR for Idaho, or at the very least promulgate an interim limit while Idaho sorts out its issues.

(2) As EPA is aware, the Tribe withdrew its support for the SRRTTF after it became clear that it would never be properly funded or effective at anything other than a public relations boost for the dischargers, and after EPA stated unequivocally that it could not legally force the Idaho dischargers to participate. What part of EPA's legal analysis has changed since the spring? Additionally, the Tribe was originally interested in the SRRTTF because the dischargers, particularly the County spokesman, acted as if the dischargers would be footing the bill, and actions to reduce PCBs would be occurring very soon. Instead, very little money has been contributed and instead of "straight to implementation" it appears that the "plan" SRRTTF is going to develop will be an unenforceable TMDL. Washington's draft PCB TMDL made fairly clear that PCB discharges would need to be reduced to essentially zero. With this being the case, what is there to study? The law would clearly support giving the dischargers very low PCB limits and compliance schedules for those limits.

(3) In multiple places in the pre-draft permits EPA refers to Washington's standards, and states that EPA needs to issue permits that will ensure compliance with those standards. However, there is no analysis of whether the discharges in Idaho will cause or contribute to exceedances of the Tribe's WQS? Given that the EPA approved Spokane Tribe standard is 3.37 pg/L for PCBs

in the water column, can't EPA review and make a scientific judgment that any discharge of PCBs in Idaho is likely or reasonable likely to cause an exceedance?[1] EPA owes the Tribe a trust duty to at a minimum follow its own regulations, and requiring numeric standards would be the correct thing to do in this instance, even if the standard is simply set to below detection limits.

(4) Why is EPA having the dischargers spend millions of dollars to address oxygen depleting pollution over the next decade when given Idaho's own 17.5 gpd FCR they will need to stop the discharge of PCBs and other toxics in the future? It appears that the dischargers' designs will not be focused on toxics at all. Why not be clear with them now that their facilities will need to stop discharging any or at the very least few PCBs/toxics in the future? That way they can properly design their facilities

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